

**REMARKS****A) Response to Notice of Incomplete Reply:**

This amendment is provided in Response to the Notice of Incomplete Reply (Nonprovisional) mailed on May 28, 2002. In that notice, the Formalities Letter indicated that the reply to the Notice of Missing Parts was incomplete because:

- 1) The drawing sheets therein allegedly did not have the appropriate margins;
- 2) The computer readable form of the sequence listing was allegedly found to be damaged and/or unreadable.

To remedy these alleged defects, Applicants enclose here substitute figures and a substitute sequence listing (electronic form and paper copy). Applicant(s) request entry of this amendment in adherence with 37 C.F.R. §§1.821 to 1.825. This amendment is accompanied by a floppy disk containing the sequences (SEQ ID NOs:1-57) in computer readable form, and a paper copy of the sequence information that has been printed from the floppy disk.

The information contained in the computer readable form (floppy disk) was prepared through the use of the software program "PatentIn" and is identical to that of the paper copy.

This amendment contains no new matter. The amendments to the specification and/or claims are to provide a formal sequence listing and/or to provide appropriate cross-references to SEQ ID Numbers in accordance with 37 C.F.R. §§1.821 to 1.825. The sequence information provided herein finds support in the specification as filed.

**B) Time Period for Response to Notice of Incomplete Reply**

The Notice of Incomplete Reply further states that the period of time to respond remains as set forth in the Notice of Missing Parts. This is procedurally incorrect. Applicants believe they should have been given one month to respond with extensions of time as provided under 35 U.S.C. §1.136(a).

Applicants timely filed a *bona fide* response to the Notice of Missing Parts on November 20, 2001 containing both the requested sequence listing and substitute figures. The Patent Office however, failed to respond to Applicants submission with the Notice of Incomplete Reply until May 28, 2002, nearly six months later.

According to M.P.E.P §714.03.

Where the amendment is *bona fide* but contains a serious omission, the examiner should: A) if there is sufficient time remaining for applicant's reply to be filed within the time period for reply to the non-final Office action (or within any extension pursuant to 37 CFR 1.136(a)), notify applicant that the omission must be supplied within the time period for reply; or B) **if there is insufficient time remaining**, issue an Office action **setting a 1-month time period to complete the reply pursuant to 37 CFR 1.135(c)**. In either event, the examiner should not further examine the application on its merits unless and until the omission is timely supplied. **If a new time period for reply is set pursuant to 37 CFR 1.135(c), applicant must supply the omission within this new time period for reply (or any extensions under 37 CFR 1.136(a) thereof)** in order to avoid abandonment of the application.. [emphasis added]

Similarly, M.P.E.P. §2422.07 states:

When an action by the applicant is a *bona fide* attempt to comply with these rules and it is apparent that compliance with some requirement has inadvertently been omitted, the applicant may be given a new time period to correct the omission. See 37 CFR 1.135(c).

and paragraph 24.03 states:

¶ 24.03 Compact Disc/CRF Submission Is Not Fully Responsive, Bona Fide Attempt

The reply filed [1] is not fully responsive to the Office communication mailed [2] for the reason(s) set forth below or on the attached Notice To Comply With The Sequence Rules or CRF Diskette Problem Report. Since the above-mentioned reply appears to be bona fide, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a). When the reply appears to be bona fide, but through an apparent oversight or inadvertence failed to provide a complete reply, use form paragraph 24.03. 2.

Accordingly, Applicants believe the Notice of Incomplete Reply should have granted Applicants one month to respond with extensions of time available under 37 CFR 1.136(a).

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Accordingly, Applicants believe the present response with petition for two month extension of time is timely filed.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 337-7871.

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Respectfully submitted,



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